

# COMMITTEE ON LIMITED JURISDICTION COURTS

## MINUTES

Wednesday, August 22, 2012

10:00 a.m. to 2:00 p.m.

Conference Room 119 A/B

1501 W. Washington St.

Phoenix, AZ 85007

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**Present:** Judge Antonio Riojas, Chair, Carla F. Boatner, C. Daniel Carrion, Janet G. Cornell, Judge Timothy Dickerson, Judge Maria Felix, Judge James William Hazel, Jr., Judge Eric Jeffery, Patrick Kotecki, Judge Dorothy Little, Judge MaryAnne Majestic, Judge Steven McMurry, Marla Randall (*telephonic*), Lisa Royal, Judge J. Matias "Matt" Tafoya, James "Marty" Vance, Sharon Yates

**Absent/Excused:** Judge Arthur Markham

**Presenters/Guests:** Theresa Barrett (AOC), Larry Claplick (owner of Arizona Crash Course in Traffic Safety), Judge Elizabeth Finn (Glendale City Court), Anne Hunter (AOC), Paul Julien (AOC), Jerry Landau (AOC), Amy Love (AOC), Carol Mitchell (AOC), Dave Puyear (Maricopa County Adult Probation), Marcus Reinkensmeyer (AOC), Patrick Scott (AOC), Glynn Thomas (Maricopa County Adult Probation), Christi Weigand (AOC)

**Staff:** Mark Meltzer (AOC); Julie Graber (AOC)

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## I. REGULAR BUSINESS

### A. Welcome and Opening Remarks

The August 22, 2012, meeting of the Committee on Limited Jurisdiction Courts ("LJC") was called to order at 10:01 a.m. by Judge Antonio Riojas, Chair. The Chair welcomed two new members, Judge Steven McMurry and Lisa Royal. He also introduced Marcus Reinkensmeyer as the new Court Services Division ("CSD") director at the AOC.

### B. Approval of Minutes

The draft minutes from the May 2, 2012, meeting of the LJC were presented for approval.

**Motion:** To approve the May 2, 2012, meeting minutes as presented. **Action:** Approve, **Moved by** Janet G. Cornell, **Seconded by** Judge Dorothy Little. Motion passed unanimously.

## II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

### A. Language Access Plans

Carol Mitchell, AOC staff, updated members on the mandatory language access plans that every Arizona court had to develop and submit to the AOC. Ms. Mitchell directed courts to continually review their plans, which describe the specific services available in their court for non-English speaking court users, as well as identify future enhancements and provide plan updates to the AOC annually. She noted that the plans were helpful to quantify the financial impact of language requests, which would in turn support future

budget requests. She reviewed several resources available to courts, such as the “Spoken Language Benchcard” and the “AJIN Interpreter Resources page,” and discussed potential educational projects to assist in enhancing language access services (e.g., AOC Language Access/Interpreter webpage and Remote Video Interpretation pilot). Ms. Mitchell highlighted the main topics and trends featured at the June Interpreter Coordinator Summit in Tucson, which included how to avoid an inquiry from the Department of Justice (“DOJ”); developing a code of professional responsibilities for interpreters; and building a webpage with information on available education and on how to become an interpreter. Comments may be forwarded directly to Ms. Mitchell at [cmitchell@courts.az.gov](mailto:cmitchell@courts.az.gov).

Janet Cornell suggested drafting best practices that would make information from an expert available to the interpreter prior to court proceedings. Marty Vance agreed with Ms. Cornell and sought additional details about DOJ’s audits. Several members supported interpreter training and education to bring people up to standards. Ms. Mitchell indicated that the AOC was looking to develop interpreter education with some funding assistance and that the Spoken Language Benchcard would be distributed in the next couple of weeks as part of a statewide memorandum.

#### **B. Legislative Update *(Item taken out of order)***

Jerry Landau, AOC Director of Government Affairs, presented three legislative proposals that will be discussed at the next Arizona Judicial Council (“AJC”) meeting and he sought feedback from members. Comments may be forwarded to Mr. Landau directly at [jlandau@courts.az.gov](mailto:jlandau@courts.az.gov).

1. The first proposal was the annual criminal code clean-up.
2. The second proposal from Maricopa County Superior Court would allow probationers to pay their monthly probation fees at probation offices instead of municipal courts (A.R.S. § 13-901, “Probation”).
3. In this proposal, Gilbert Municipal Court is seeking clarification from the legislature about the court’s ability to convert fines to community service in matters related to Driving Under the Influence (“DUI”) under A.R.S. § 13-810 because there has been confusion and division between the AOC’s and the courts’ interpretation.

Discussion ensued about the third proposal. Several members supported the ability of courts to exercise judicial discretion with regard to the conversion of fines to “community restitution” or “days for dollars” for defendants who proved to be indigents with DUI-related convictions. The proposal’s approach seeking only clarification was criticized by some. Some members suggested proceeding differently so that the law would allow for the conversion of fines and the matter be recognized as one of local concern and subject to a judge’s discretion. There was some frustration articulated about the inability of limited jurisdiction judges to be heard or to challenge the AOC’s position. According to Mr. Landau, the legislative intent was clear that a mandatory fine could not be waived. He advised he would present the legislation to the AJC and a decision would be made

about a strategy. Marcus Reinkensmeyer indicated that he needed to review the background before he could respond.

### **C. Defensive Driving Program Eligibility**

Anne Hunter, manager of the AOC's Certification and Licensing Division, reported overseeing defensive driving schools and the approval process of new schools. Ms. Hunter presented proposed language from defensive driving schools that would allow drivers to become eligible sooner to attend the defensive driving program ("DDP"), from 24 months to 12 or 18 months. She sought comments and the Committee's position on the proposal.

Marty Vance contended that the proposed changes would be a revenue enhancer for driving schools and inappropriate when considering the number of citations that are issued and the number of accidents that occur. Janet Cornell raised perception issues that money could get a person out of a citation. Judge Majestic brought up one of the DDP's stated goals to assist limited jurisdiction courts with caseload processing. A few members responded that their courts did not need help with caseload processing. Several members recommended that the committee take no position and leave the matter to the legislature to decide.

A representative from the defensive driving schools commented that it was beneficial for drivers to get a review of traffic laws because drivers are unaware of the changes to the rules that occur yearly. He cited statistics showing that drivers who attend a class will forget what they learned within 12 months and supported an option for drivers to get a review of the laws and something for their money.

**Motion:** To take no position on the proposed statutory change, as discussed. **Action:** Approve, **Moved by** Judge Maria Felix, **Seconded by** Judge Timothy Dickerson. No further discussion. Motion passed unanimously.

### **D. FARE Update**

Christi Weigand, manager of the AOC's Consolidated Collections Unit, FARE and Debt Set-Off ("DSO") Programs, provided an update on both FARE and DSO collections for fiscal year 2012. Ms. Weigand explained that in order to provide a better perspective, statewide figures were combined for both programs, which have shown the most successful fiscal year for both programs by reaching 64.1M.

#### **DSO Highlights:**

- DSO collections in February and March surpassed collections for the entire CY2011.
  - Collections reached \$18.6M in CY2012.
  - Collections totaled \$11.8M in CY2011.
- The largest tax interception in CY2012 totaled \$5,103. The average amount was \$231.
- The largest lottery winning interception in CY2012 totaled \$4,823. The average amount was \$782.

**FARE Highlights:**

- FARE Backlog collections through the life of the program totaled \$265.1M. During tax season, numbers pickup.
- Efforts concentrating on data clean-up of very old dormant accounts resulted in 17,819 cases totaling \$3.5M cleaned in FY2012.
- In collaboration with ITD staff, FARE was implemented in La Paz and Pinal Superior Courts.
- Efforts concentrating on increasing collections for Interim Backlog courts resulted in 23,673 new cases submitted to FARE for collections totaling \$16.9M in FY2012.
- The Revenue Generating Project resulted in \$3.5M in additional revenue.

Ms. Weigand discussed several revenue generating methods and singled out the addition of cases as the most critical. She noted that since both programs see increases from February through May based on when taxes are filed and refunds expected, a good time to add cases is during tax season preparation in advance of tax season. Ms. Weigand finally reviewed the main obstacles to monetary enforcement and advised that ACS changed its name to Xerox. Ms. Weigand welcomed questions or concerns from the Committee and may be contacted directly at [cweigand@courts.az.gov](mailto:cweigand@courts.az.gov).

**E. Proposed ACJA Section Regarding Storage and Retention of Electronic Records**

Stewart Bruner, staff to Committee on Technology, was unable to attend the meeting but asked that members share proposed ACJA section 5-10X regarding judicial branch automation with clerks and court administrators, and visit the ACJA Forum to make comments on this proposal. Mr. Bruner will return at the October meeting to address any issues.

**F. Update on the Justice Court Rules of Civil Procedure ("JCRCP"), and Upcoming Educational Programs**

Paul Julien, AOC Judicial Education Officer and Chair of the Committee on the Civil Rules of Procedure for Limited Jurisdiction Courts ("RCiP"), updated members on the progress of the proposed Justice Court Rules of Civil Procedure ("JCRCP"), which will be considered by the Supreme Court during its Rules Agenda later this month. Mr. Julien reviewed RCiP's work and highlighted several features of the proposed rules. RCiP members were commended for their hard work and dedication and Judges Widmaier and McMurphy were recognized specifically for their comments and significant contributions. Mr. Julien finally described upcoming programs for limited jurisdiction court judges that will be available in the coming months through the AOC's Educational Services Division.

Judge Dickerson, who is also a member of RCiP, commented that anyone who reads the proposed rules will gain knowledge, whether it is as a pro per or as a justice of the peace who might not have civil law knowledge.

## **G. Supervised Probation for Limited Jurisdiction Courts**

Presiding Judge Elizabeth Finn from Glendale City Court, Glynn Thomas and Dave Puyear, Supervised Probation Officers from Maricopa County Probation, presented services available through county supervised probation services (“supervised probation”) and explained how courts can participate to become a domestic violence (“DV”) supervised probation court. Glendale City Court was also featured as Maricopa County’s only domestic violence supervised probation review docket.

Judge Finn described supervised probation’s goals, criteria and services for offenders who commit a second DV offense within 60 months and its emphasis on helping the abuser while also holding the abuser accountable. She also reviewed the duties, responsibilities, and services provided by probation officers as well as the grounds for revocation in Glendale specifically. Judge Finn outlined the required steps for courts to setup a DV Supervised Probation Court, which included an administrative order from the presiding judge; standardized terms; and processes to convey information to probation, and to identify which petitions to revoke. She then shared Glendale’s experience as a DV Supervised Probation Court and discussed the advantages of a review docket and of supervised probation over unsupervised probation. In supervised probation, the probation officer determines the type of service that the offender really needs. The review docket allows judge-based monitoring and risk assessment that reinforces accountability for offenders and provides support to the supervised probation officers. This holistic approach has demonstrated less recidivism. Offenders are not as resistant to change and behaviors do change with the focus on consequences and being accountable. While there are consequences when an offender absconds, punishment is not the first response but rather the importance is placed on recovery and getting the offender back on supervised probation. Supervised probation does not last more than one year and does not cost city taxpayers because probationers pay probation fees of \$65 per month (unless there is a waiver). Only 10% of eligible probationers do not choose supervised probation and opt for 180 days in jail plus community service.

## **H. Update re: the Committee on the Impact of Wireless Mobile Technologies and Social Media on Court Proceedings**

Mark Meltzer, staff to the Committee on the Impact of Wireless Mobile Technologies and Social Media on Court Proceedings (“Wireless”) discussed highlights of the Committee’s work to date and requested input from the LJC on specific items that will be considered at the next Wireless meeting. Mr. Meltzer reviewed the Committee’s charge and explained that their focus is on the people who come to court, not on court personnel. He presented revisions to SCR 122 and new proposed SCR 122.1 regarding the use of devices in the courthouse.

Judge McMurry supported the proposed approach but had concerns about those who wear Bluetooth ear pieces. Members agreed that requiring people to surrender their phones would be a logistical nightmare. Several LJC judges reported that they require everyone to turn off their portable devices while they are in the courtroom because these devices cause a lot of distractions. They also expressed concerns that the new uniform rule would take away from their ability to control their courtrooms and hinder their judicial

independence and use of discretion on matters of local concern. A member noted that the prohibition on camera use did not take into consideration that some courthouses are designated as historic courthouses and are often photographed by members of the public. Mr. Meltzer suggested emphasizing a courtroom prohibition on camera use rather than a courthouse prohibition. He indicated that LJC's comments would be brought back to the Wireless Committee for discussion.

#### **I. Discussion on § 13-907 Motions Following File Destruction**

Judge Majestic sought a survey of local court practices on how courts deal with a defendant who files a motion to set aside the judgment of conviction pursuant to A.R.S. § 13-907 and the case file has been destroyed.

Carla Boatner reported that in Chandler Municipal Court, if the case number is provided by the defendant, the motion to set aside is sent to the prosecutor and a hearing is held. If the prosecutor has no objection, the motion to set aside is granted. Judge Jeffery noted that before granting a motion to set aside, the party must provide him with the case number and he will check with DPS to see if the defendant is eligible. According to Judge Jeffery, DPS has the original case numbers, which are entered with final dispositions. Judge Felix indicated that she conducts a hearing in open court, which is recorded, with county attorneys, defendants, and defendants' attorneys and recalled that county attorneys had the case information.

### **III. OTHER BUSINESS**

#### **A. Good of the Order/Call to the Public**

None.

#### **B. Meeting for October was moved to Halloween.**

**Motion:** To Adjourn. Motion was seconded and passed unanimously. Adjourned at 1:48 p.m.

#### **C. Next Committee Meeting Date:**

Wednesday, October 31, 2012

10:00 a.m. to 3:00 p.m.

State Courts Building, Room 119 A/B

1501 W. Washington St.

Phoenix, AZ 85007